

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of

Case No. PA-04-0068A

4 **MICHAEL P. MILLETTE, P.A.-C**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR A LETTER
OF REPRIMAND AND PROBATION**

5 Holder of License No. 2866
6 For Practice as a Physician Assistant
7 In the State of Arizona.

8 The Arizona Regulatory Board of Physician Assistants ("Board") considered this
9 matter at its public meeting on November 16, 2005. Michael P. Millette, P.A.-C
10 ("Respondent") appeared before the Board without legal counsel for a formal interview
11 pursuant to the authority vested in the Board by A.R.S. § 32-2551. The Board voted to
12 issue the following findings of fact, conclusions of law and order after due consideration
13 of the facts and law applicable to this matter.

14 **FINDINGS OF FACT**

- 15
- 16 1. The Board is the duly constituted authority for the regulation and control of
17 physician assistants in the State of Arizona.
- 18 2. Respondent is the holder of license number 2866 for the performance of
19 healthcare tasks in the State of Arizona.
- 20 3. The Board initiated case number PA-04-0068A after Respondent called the
21 Board to report what he termed a "reaction" to certain prescription medications.
22 Respondent reported he attempted to call in sick for work based on the reaction, but was
23 told he must report for duty. Respondent was subsequently sent home because his
24 employers believed he was impaired and because he refused a physical evaluation and
25 refused to undergo a drug screen.

1 4. Respondent was subsequently ordered to undergo an inpatient evaluation.
2 On February 16, 2005 after the inpatient evaluation Respondent was ordered to, among
3 other things, undergo random urine drug testing and hair testing for six months. On
4 February 23, 2005 the Board received a report that Respondent's drug screen was
5 positive. On this same date Respondent signed an Interim Consent Agreement for
6 Practice Restriction that also required he undergo inpatient treatment. Respondent
7 successfully completed that treatment and entered the Board's Monitored Aftercare
8 Program ("MAP"). Respondent has been compliant with all requirements of MAP.
9

10 5. Respondent thanked the Board for giving him the opportunity to appear
11 before them, noting when he first came to the Board's attention he did not think he would
12 be sitting before the Board with this opportunity. Respondent testified he had no excuses
13 for his behavior and he accepts what he did in the past and looks forward to a new
14 beginning. Respondent testified that with his disease he lied to everyone around him
15 and, even worse, he lied to himself. Respondent noted he could not see what was so
16 obvious to the people around him. Respondent thanked David Greenberg, M.D., the
17 Board's Contracted Addiction Medicine Specialist, for his patience and the time he
18 invested to help Respondent in his darkest hours. Respondent noted he would not be
19 where he was today without Dr. Greenberg's help. Respondent testified he was prepared
20 to leave the profession to avoid the consequences of his actions and Dr. Greenberg
21 convinced him he could deal with the consequences and prevail over his disease of
22 addiction.
23

24 6. Respondent testified he went to treatment with the intent of dealing with his
25 addiction and while in treatment he surrendered absolutely and had never felt as free.

1 Respondent testified he was grateful the opportunity was given to him. Respondent
2 testified the road back to work has not been an easy one because many employers to
3 whom he applied have slammed the door in his face because of his history of substance
4 abuse and pending disciplinary action of the Board. Respondent testified he will accept
5 whatever further action the Board may take. Respondent asked the Board to spare him
6 disciplinary action and issue an advisory letter. Respondent also asked the Board to
7 enter him into MAP to ensure his compliance and give him an additional tool for his
8 journey through recovery.
9

10 7. The Board congratulated Respondent on his successful treatment. The
11 Board asked Respondent to comment on his relapse in February 2005. Respondent
12 testified his addiction led to problems at work in December 2004 and at that time he tried
13 to stop his addiction himself. After a period of time of being away from friends and places
14 he used to frequent he returned thinking he had conquered his addiction. Respondent
15 testified his relapse was evidence he had not conquered his addiction.

16 8. Respondent was asked what mechanisms and support structures he had in
17 place to ensure he would not relapse again. Respondent testified he attended regular
18 Alcoholics Anonymous meetings and other meetings. Respondent testified he had a
19 sponsor who is a wonderful person who has been sober for many years. Respondent
20 noted his wife has stood by him even though he had given her many reasons to leave.
21 Respondent noted his family also stands by him and he has a strong support system,
22 including friends in sobriety, as well as the Board.
23

24 9. Respondent was asked if he was currently employed as a physician
25 assistant. Respondent testified he is currently seeking employment and it has been a

1 long process that is drawn out by the potential of Board action. Respondent testified he
2 has a notice of supervision in place with the Board and is waiting to see if his insurance
3 company will pick him up. Respondent testified he had been employed, but was released
4 prior to even beginning work when the employer found out he was participating in MAP.

5 10. The standard of care required Respondent not to present to work as a
6 physician assistant while impaired.

7 11. Respondent deviated from the standard of care when he presented to work
8 while impaired.

9 12. Patients were subject to potential harm as a result of Respondent's
10 impairment.
11

12 CONCLUSIONS OF LAW

13 1. The Board on the Regulation of Physician Assistants possesses jurisdiction
14 over the subject matter hereof and over Respondent.

15 2. The Board has received substantial evidence supporting the Findings of
16 Fact described above and said findings constitute unprofessional conduct or other
17 grounds for the Board to take disciplinary action.

18 3. The conduct and circumstances above constitute unprofessional conduct
19 pursuant to A.R.S. § 32-2501(21)(d) ("[h]abitual intemperance in the use of alcohol or
20 habitual substance abuse"); 32-2501(21)(j) ("[a]ny conduct or practice that is harmful or
21 dangerous to the health of the patient or the public"); and 32-2501(21)(dd) ("[v]iolating a
22 formal order, probation agreement or stipulation issued or entered into by the board or its
23 executive director").

24 ORDER

25 Based upon the foregoing, IT IS HEREBY ORDERED that:

1. Respondent is issued a Letter of Reprimand for the violations listed above.

2 Respondent is placed on Probation for five years with the following terms and conditions:

a. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation. The declarations shall be submitted on or before the 15th of March, June, September and December of each year, beginning on or before June, 2005.

b.1. **Participation.** Respondent shall promptly enroll in and participate in the Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physician assistants who are impaired by alcohol or drug abuse. Respondent's participation in MAP may be unilaterally terminated with or without cause at the Board's discretion at any time after the issuance of this Order.

2. **Relapse Prevention Group Therapy.** Respondent shall attend MAP's relapse prevention group therapy sessions one time per week for the duration of this Order, unless excused by the MAP relapse prevention group therapist for good cause such as illness or vacation. Respondent shall instruct the MAP relapse prevention group therapist to release to Board Staff, upon request, all records relating to Respondent's treatment, and to submit monthly reports to Board Staff regarding attendance and progress. The reports shall be submitted on or before the 10th day of each month.

3. **12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-step meetings or other self-help group meetings appropriate for substance abuse and approved by Board Staff, for a period of ninety days beginning not later than either (a) the first day following Respondent's discharge from chemical dependency treatment or (b) the date of this Order.

4. Following completion of the ninety meetings in ninety days, Respondent shall participate in a 12-step recovery program or other self-help program

appropriate for substance abuse as recommended by the MAP relapse prevention group therapist and approved by Board Staff. Respondent shall attend a minimum of three 12-step or other self-help program meetings per week.

5. **Board-Staff Approved Primary Care Physician.** Respondent shall promptly obtain a primary care physician and shall submit the name of the physician to Board Staff in writing for approval. The Board-approved primary care physician ("PCP") shall be in charge of providing and coordinating Respondent's medical care and treatment. Except in an *Emergency*, Respondent shall obtain medical care and treatment only from the PCP and from health care providers to whom the PCP refers Respondent. Respondent shall request that the PCP document all referrals in the medical record. Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and provide a copy of this Order to the PCP. Respondent shall also inform all other health care providers who provide medical care or treatment that Respondent is participating in MAP.

a. "*Emergency*" means a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life.

6. **Medication.** Except in an *Emergency*, Respondent shall take no *Medication* unless the PCP or other health care provider to whom the PCP refers Respondent prescribes the *Medication*. Respondent shall not self-prescribe any *Medication*.

a. "*Medication*" means a prescription-only drug, controlled substance, and over-the counter preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen.

7. If a controlled substance is prescribed, dispensed, or is administered to Respondent by any person other than PCP, Respondent shall notify the PCP in writing within 48 hours. The notification shall contain all information required for the medication

1 log entry specified in paragraph 8. Respondent shall request that the notification be made
2 a part of the medical record. This paragraph does not authorize Respondent to take any
3 *Medication* other than in accordance with paragraph 6.

4 **8. Medication Log.** Respondent shall maintain a current legible log of
5 all *Medication* taken by or administered to Respondent, and shall make the log available to
6 the Board Staff upon request. For *Medication* (other than controlled substances) taken on
7 an on-going basis, Respondent may comply with this paragraph by logging the first and
8 last administration of the *Medication* and all changes in dosage or frequency. The log, at
9 a minimum, shall include the following:

- 10 a. Name and dosage of *Medication* taken or administered;
11 b. Date taken or administered;
12 c. Name of prescribing or administering physician;
13 d. Reason *Medication* was prescribed or administered.

14 This paragraph does not authorize Respondent to take any *Medication* other than in
15 accordance with paragraph 6.

16 **9. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol
17 or any food or other substance containing poppy seeds or alcohol.

18 **10. Biological Fluid Collection.** During all times that Respondent is
19 physically present in the State of Arizona and such other times as Board Staff may direct,
20 Respondent shall promptly comply with requests from Board Staff, the MAP relapse
21 prevention group therapist, or the MAP Director to submit to witnessed biological fluid
22 collection. If Respondent is directed to contact an automated telephone message system
23 to determine when to provide a specimen, Respondent shall do so within the hours
24 specified by Board Staff. For the purposes of this paragraph, in the case of an in-person
25 request, "promptly comply" means "immediately." In the case of a telephonic request,

1 "promptly comply" means that, except for good cause shown, Respondent shall appear
2 and submit to specimen collection not later than two hours after telephonic notice to
3 appear is given. The Board in its sole discretion shall determine good cause.

4 11. Respondent shall provide Board Staff in writing with one telephone
5 number that shall be used to contact Respondent on a 24 hour per day/seven day per
6 week basis to submit to biological fluid collection. For the purposes of this section,
7 telephonic notice shall be deemed given at the time a message to appear is left at the
8 contact telephone number provided by Respondent. Respondent authorizes any person
9 or organization conducting tests on the collected samples to provide testing results to the
10 Board and the MAP Director.

11 12. Respondent shall cooperate with collection site personnel regarding
12 biological fluid collection. Repeated complaints from collection site personnel regarding
13 Respondent's lack of cooperation regarding collection may be grounds for termination
14 from MAP.

15 13. Out of State Travel and/or Unavailability at Home or Office
16 Telephone Number. Respondent shall provide Board Staff at least three business
17 days advance written notice of any plans to be away from office or home when such
18 absence would prohibit Respondent from responding to an order to provide a biological
19 fluid specimen or from responding to communications from the Board. The notice shall
20 state the reason for the intended absence from home or office, and shall provide a
21 telephone number that may be used to contact Respondent.

22 14. Payment for Services. Respondent shall pay for all costs,
23 including personnel and contractor costs, associated with participating in MAP at
24 time service is rendered, or within 30 days of each invoice sent to Respondent.

25 15. Examination. Respondent shall submit to mental, physical, and

1 medical competency examinations at such times and under such conditions as directed by
2 the Board to assist the Board in monitoring Respondent's ability to safely perform as a
3 physician and Respondent's compliance with the terms of this Order.

4 **16. Treatment.** Respondent shall submit to all medical, substance
5 abuse, and mental health care and treatment ordered by the Board, or recommended by
6 the MAP Director.

7 **17. Obey All Laws.** Respondent shall obey all federal, state and local
8 laws, and all rules governing the practice of medicine in the State of Arizona.

9 **18. Interviews.** Respondent shall appear in person before the Board and
10 its Staff and MAP committees for interviews upon request, upon reasonable notice.

11 **19. Address and Phone Changes, Notice.** Respondent shall
12 immediately notify the Board in writing of any change in office or home addresses and
13 telephone numbers.

14 **20. Relapse, Violation.** In the event of chemical dependency relapse by
15 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent
16 shall promptly enter into an Interim Consent Agreement for Practice Restriction that
17 requires, among other things, that Respondent not practice medicine until such time as
18 Respondent successfully completes an inpatient or residential treatment program for
19 chemical dependency designated by Board Staff and obtains affirmative approval from the
20 Board or the Executive Director to return to the practice of medicine. Prior to approving
21 Respondent's request to return to the practice of medicine, Respondent may be required
22 to submit to witnessed biological fluid collection, undergo any combination of physical
23 examination, psychiatric or psychological evaluation and/or successfully pass the special
24 purpose licensing examination or the Board may conduct interviews for the purpose of
25 assisting it in determining the ability of Respondent to safely return to the practice of

1 medicine. In no respect shall the terms of this paragraph restrict the Board's
2 authority to initiate and take disciplinary action for violation of this Order.

3 **21. Notice Requirements.**

4 (A) Respondent shall immediately provide a copy of this Order to all
5 employers and all hospitals and free standing surgery centers where Respondent currently
6 has privileges. Within 30 days of the date of this Order, Respondent shall provide the
7 Board with a signed statement of compliance with this notification requirement. Upon any
8 change in employer or upon the granting of privileges at additional hospitals and free
9 standing surgery centers, Respondent shall provide the employer, hospital or free standing
10 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
11 the granting of privileges at additional hospitals and free standing surgery centers,
12 Respondent shall provide the Board with a signed statement of compliance with this
13 notification requirement.

14 (B) Respondent is further required to notify, in writing, all employers,
15 hospitals and free standing surgery centers where Respondent currently has or in the
16 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
17 alcohol in violation of this Order and/or entry into a treatment program. Within seven days
18 of any of these events Respondent shall provide the Board written confirmation of
19 compliance with this notification requirement.

20 (C) Respondent shall immediately submit to the Board under penalty
21 of perjury, on a form provided by the Board, the name(s) and address(es) of all employers
22 and all hospitals and free standing surgery centers where Respondent currently holds
23 privileges to practice. Respondent is further required to, under penalty of perjury, on a
24 form provided by the Board, immediately notify the Board of any changes in employment
25

1 and of any hospitals and free standing surgery centers where Respondent gains privileges
2 after the effective date of this Order.

3 **22. Public Record.** This Order is a public record.

4 **23. Out-of-State.** In the event Respondent resides or practices as a
5 physician assistant in a state other than Arizona, Respondent shall participate in the
6 rehabilitation program sponsored by that state's medical licensing authority or medical
7 society. Respondent shall cause the monitoring state's program to provide written
8 reports to the Board regarding Respondent's attendance, participation, and monitoring.
9 The reports shall be due quarterly on or before the 15th day of March, June, September,
10 and December of each year, until the Board terminates this requirement in writing. The
11 monitoring state's program and Respondent shall immediately notify the Board if
12 Respondent: a) is non-compliant with any aspect of the monitoring requirements; b)
13 relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug
14 test(s); missed and/or late urine drug tests; or otherwise rejected urine drug tests; and e)
15 is required to undergo any additional treatment.

16 **24.** This Order supersedes all previous consent agreements and
17 stipulations between the Board and/or the Executive Director and Respondent.

18 **25.** The Board retains jurisdiction and may initiate new action based upon
19 any violation of this Order.

20 **RIGHT TO PETITION FOR REHEARING**

21 Respondent is hereby notified that he has the right to petition for a rehearing. The
22 petition for rehearing must be filed with the Board's Executive Director within thirty (30)
23 days after service of this Order. A.R.S. § 41-1092.09. The petition for rehearing must set
24 forth legally sufficient reasons for granting a rehearing. A.A.C. R4-17-403. Service of
25 this order is effective five (5) days after date of mailing. If a motion for rehearing is not

1 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
2 Respondent.

3 Respondent is further notified that the filing of a motion for rehearing is required to
4 preserve any rights of appeal to the Superior Court.

5 DATED this 2nd day of March, 2008.



ARIZONA REGULATORY BOARD OF
PHYSICIAN ASSISTANTS

10
11


TIMOTHY C. MILLER, J.D.
Executive Director

12 Original of the foregoing filed this
2nd day of March, 2008 with:

13 Arizona Regulatory Board of
14 Physician Assistants
15 9545 East Doubletree Ranch Road
16 Scottsdale, Arizona 85258

17 Executed copy of the foregoing
18 mailed by U.S. certified mail this
19 2nd day of March, 2008, to:

20 Michael P. Millette, P.A.-C
21 Address of Record

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23
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25


